

## **REMARKS**

### **Entry of Amendment**

As Applicants are filing a RCE herewith, this amendment should be entered and considered by the Examiner at this time.

Applicants have the following comments in support of this amendment.

#### **I. Claim Amendments - Reference To The Disclosure**

In order to further clarify the claimed sanitizing compositions of the present application, Applicants are amending independent Claims 1 and 9. In particular, these claims have been amended to clarify that the claimed compositions are directed to bactericidal sanitizing compositions.

As explained in the present application, the claimed bactericidal sanitizing composition achieves an unanticipated synergistic bactericidal activity. See e.g. paragraphs [0037], [0038], [0043], [0045], [0057] and [0060], along with Applicants' assay data shown in Tables 1 and 4 of the present application. These passages clearly show that the claimed compositions has bactericidal properties and achieves an unanticipated synergistic bactericidal result.

Therefore, the amendments to the claims have not added any new matter and are clearly supported by the original application as filed. Hence, it is respectfully requested that this amendment be entered and considered at this time.

#### **II. Claim Rejections - 35 U.S.C. §103**

In the Final Rejection, the Examiner rejects Claims 1, 5-10, and 13-16 under 35 U.S.C.

§103(a) as being unpatentable over Scholz (U.S. 5,908,619) in view of McLeod et al. (Intern. J. Parasitology). This rejection is respectfully traversed.

While Applicants traverse this rejection, in order to advance the prosecution of this application, Applicants are amending Claims 1 and 9 to specify that the claimed invention is directed to bactericidal sanitizing compositions.

In contrast, in the Final Rejection, the Examiner acknowledges in the second paragraph on p. 3 of the Final Rejection that Scholz fails to disclose the claimed compositions. To redress this, the Examiner turns to McLeod, and contends that McLeod provides certain data on inhibition of bacterial growth (i.e., bacteriostatic properties) of Triclosan at certain levels. However, the cited IC50 levels (i.e., half maximal inhibitory concentrations, which correspond to the levels of test agent necessary to achieve a 50% inhibition of growth in vitro) described by McLeod are *unrelated* to bactericidal levels (i.e., levels that kill all exposed organisms). Hence, this disclosure in McLeod does not disclose or suggest the claimed invention and is irrelevant to the claimed invention which kills bacteria rather than simply inhibit their growth.

Further, there is no reason for one skilled in the art to combine this irrelevant disclosure in McLeod with Scholz to arrive at the claimed invention. There must be reason for one skilled in the art to combine references to arrive at the claimed invention. See KSR International Co. v. Teleflex Inc., 550 USPQ2d 1385 (2007). It is not merely enough to note that all the elements of a claimed invention are known. As noted in KSR when explaining why a reason to combine references is important, “inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.” In this case, there is no reason to combine the disclosure of certain inhibitory properties

by McLeod with Scholz to arrive at the claimed bactericidal compositions of the present application. Rather, such a combination is improper hindsight reconstruction.

Therefore, independent Claims 1 and 9 and those claims dependent thereon are not disclosed or suggested by Scholz in view of McLeod, the combination of these references is improper, and Claims 1 and 9 and those claims dependent thereon are patentably distinct over these references. Accordingly, it is respectfully requested that this rejection be withdrawn.

### **Conclusion**

For at least the above-stated reasons, it is respectfully submitted that the claims of the present application are in an allowable condition and are patentable over the cited references. Accordingly, it is requested that the application now be allowed.

If any further fee should be due for this amendment, the RCE and/or the extension of time, please charge our deposit account 50/1039.

Favorable reconsideration is earnestly solicited.

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Respectfully submitted,

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